IN THE HIGH COURT OF BOMBAY AT GOA.

CRIMINAL WRIT PETITION NO. 21 OF 2002.

Caitan Martin Fernandes ... Petitioner.

Versus

State of Goa through I.G.
Prisons, N.G. Panaji. ... Respondent.

Mrs. A. Dessai, Advocate under Legal Aid Scheme for the Petitioner.

Miss S. Linhares, Addl. Govt. Advocate for the State.

Coram: P.V. HARDAS, J.

Date: 12th July 2002.

ORAL JUDGMENT.

Rule. By consent, Rule made returnable forthwith.

2. This is a petition presented through jail by the petitioner challenging the rejection of his request for being released on parole. The Order impugned in the present petition is dated 13th March 2002 by the Inspector General of Prisons, Panaji, Goa. As the petitioner was not in a position to engage a counsel to represent him in the petition, this Court appointed Mrs. Dessai as a counsel to represent the petitioner. Mrs. Dessai, the learned counsel, who has very ably argued on behalf of the petitioner, has submitted that the petitioner by his application seeking parole had stated two grounds. The first ground was that the petitioner was suffering from piles and the second ground was that the petitioner wanted to attend the First Holy Communion of his son.

3. The Superintendent of Police, North, Panaji Goa, conducted an inquiry and submitted his report dated 14th February 2002. The reason given by the Superintendent of Police for not recommending the grant of parole to the petitioner is that earlier when the petitioner had been released on parole, the petitioner was detained under Section 151 of Criminal Procedure Code on account of some dispute with his sister. The Superintendent of Police also opined that the grounds mentioned in the application were not genuine. A perusal of the said report would show that there are no reasons as to why the Superintendent of Police had come to the conclusion that the grounds were not genuine. The Inspector General of Prisons, Panaji, Goa by the Order dated 13th march 2002 rejected the application of the petitioner on the ground that the reasons on the basis of which parole were sought, were not genuine. Curiously also, the Inspector General of Prisons, Panaji, Goa has not given any reasons for rejecting the application of the petitioner for parole except that the grounds on which parole was sought were not genuine. It is expected that the Authorities while refusing to exercise the discretion, should state reasons and those reasons should be discernible from the Order itself. The Inspector General of Prisons has mechanically accepted what the Superintendent of Police in his report dated 14th February 2002 had averred that

the grounds were not genuine.

4. For the aforesaid reasons, according to me, the Order impugned in the present petition dated 13th March 2002, passed by the Inspector General of Prisons, Panaji, Goa, is unsustainable and deserves to be quashed and set aside. Accordingly, the impugned Order dated 13th March 2002 issued by the Inspector General of Prisons, Panaji, Goa, is quashed and set aside. The Inspector General of Prisons, Panaji, Goa, shall decide the application of the petitioner for parole afresh, if necessary, after calling a report from the Superintendent of Police, within 15 days from the receipt of the writ from this Court.

5. Criminal Writ Petition is, accordingly, allowed. Rule is made absolute in the above terms with no order as to costs.

(P.V. HARDAS)
JUDGE.

ed's.